

REMARKS

Claims 1-8 and 15-17 are pending in the application. Claims 9-11 and 18 have been cancelled without prejudice or disclaimer. Claims 12-14 and 19-24 have been withdrawn. Claims 1, 6-8, and 15-17 have been amended. No new matter has been added. Applicant thanks Examiner Nguyen for the interview conducted on September 29, 2009 (“the interview”). During the interview, proposed amendments to independent claim 1 were discussed.

I. Claim Rejections – 35 U.S.C. § 101

Claims 1-8 are Allowable

The Office has rejected claims 1-8 on page 2 of the Office Action, under 35 U.S.C. §101, as non-statutory subject matter. Specifically, the Office states, “[w]hile the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled “Clarification of ‘Processes’ under 35 U.S.C. 101”). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.”

Although Applicants disagree with the Office’s assertion, claim 1 has been amended to recite “communicating a combined Internet Protocol (IP) signal and an Asynchronous Transfer Mode (ATM) signal via an optical medium, wherein the ATM signal is phase modulated based on the IP signal, wherein the combined ATM/IP signal is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry.” Claim 1 includes optical network terminations. Therefore, Applicant requests that the § 101 rejections of claims 1-8 be withdrawn.

II. Claim Rejections – 35 U.S.C. § 103

Claims 1, 5, 7, 8, and 15 are Allowable

The Office has rejected claims 1, 5, 7, 8, and 15 on page 3 of the Office Action, under 35 U.S.C. §103(a), as being anticipated by U.S. Patent No. 7,376,144 (“Levi”) in view of U.S. Patent No. 5,459,600 (“Davis”). Applicant respectfully traverses the rejections.

The cited portions of Levi and Davis, individually or in combination, do not disclose or suggest the specific combination of claim 1. For example, the cited portions of Levi and Davis fail to disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1.

The Office admits that “Levi does not disclose the feature of phase modulation of two signals (ATM and IP). *See* Office Action, page 4. Therefore, the cited portions of Levi do not disclose or suggest a combined ATM/IP signal. In addition, Levi describes digital service information over a passive optical network but the cited portions of Levi do not disclose or suggest demodulator circuitry. *See* Levi, Abstract. Therefore, the cited portions of Levi do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1.

In further contrast to claim 1, Davis discloses a receiver (14) that receives a modulated signal and includes demodulator circuitry. *See* Davis, Figure 2, element 14; Figure 3, elements 114F and 114S; and Figure 4, elements 272 and 270. The cited portions of Davis do not disclose or suggest a receiver that receives the same modulated signal but does not include demodulator circuitry. Therefore, the cited portions of Davis do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1.

Therefore, the cited portions of Levi and Davis, individually or in combination, fail to disclose or suggest the specific combination of claim 1. Hence, claim 1 is allowable. Claims 5, 7, and 8 depend from claim 1. Accordingly, claims 5, 7, and 8 are allowable, at least by virtue of their dependence from claim 1.

The cited portions of Levi and Davis, individually or in combination, do not disclose or suggest the specific combination of claim 15. For example, the cited portions of Levi and Davis fail to disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 15.

The Office admits that “Levi does not disclose the feature of phase modulation of two signals (ATM and IP). *See* Office Action, page 4. Therefore, the cited portions of Levi do not disclose or suggest a combined ATM/IP signal. In addition, Levi describes digital service information over a passive optical network but the cited portions of Levi do not disclose or suggest demodulator circuitry. *See* Levi, Abstract. Therefore, the cited portions of Levi do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 15.

In further contrast to claim 15, Davis discloses a receiver (14) that receives a modulated signal and includes demodulator circuitry. *See* Davis, Figure 2, element 14; Figure 3, elements 114F and 114S; and Figure 4, elements 272 and 270. The cited portions of Davis do not disclose or suggest a receiver that receives the same modulated signal but does not include demodulator circuitry. Therefore, the cited portions of Davis do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 15.

Therefore, the cited portions of Levi and Davis, individually or in combination, fail to disclose or suggest the specific combination of claim 15. Hence, claim 15 is allowable.

Claim 6 is Allowable

The Office has rejected claim 6 on page 6 of the Office Action, under 35 U.S.C. § 103(a) over Levi in view of Davis and U.S. Patent Application Publication No. 2002/0021659 (“Meigen”). Applicant respectfully traverses the rejection.

Claim 6 depends from claim 1. As explained above, the cited portions of Levi and Davis fail to disclose or suggest at least one element of claim 1. The cited portions of Meigen do not disclose or suggest the elements of claim 1 not disclosed or suggested by the cited portions of

Levi and Davis. For example, the cited portions of Meigen do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1. In contrast to claim 1, Meigen describes a method for protection switching in a point-to-multipoint network including a first network end node and a second network end node. *See* Meigen, Abstract. The cited portions of Meigen do not disclose or suggest that the network end nodes are a first ONT that does not include demodulator circuitry and a second ONT that does include demodulator circuitry. Therefore, the cited portions of Meigen do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1, from which claim 6 depends. Hence, claim 6 is allowable, at least by virtue of its dependence from claim 1.

Claims 2 and 16 are Allowable

The Office has rejected claims 2 and 6 on page 6 of the Office Action, under 35 U.S.C. § 103(a) over Levi in view of Davis and U.S. Patent Application Publication No. 2003/0210912 (“Leuthold”). Applicant respectfully traverses the rejections.

Claim 2 depends from claim 1. As explained above, the cited portions of Levi and Davis fail to disclose or suggest at least one element of claim 1. The cited portions of Leuthold do not disclose or suggest the elements of claim 1 not disclosed or suggested by the cited portions of Levi and Davis. For example, the cited portions of Leuthold do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1. In contrast to claim 1, Leuthold describes a receiver (64) that receives a modulated signal. *See* Leuthold, Figure 6. The cited portions of Leuthold do not disclose or suggest multiple receivers where a first receiver is a first ONT that does not include demodulator circuitry and a second receiver is a second ONT that does include demodulator circuitry. Therefore, the cited portions of Leuthold do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1, from which claim 2 depends. Hence, claim 2 is allowable, at least by virtue of its dependence from claim 1.

Claim 16 depends from claim 15. As explained above, the cited portions of Levi and Davis fail to disclose or suggest at least one element of claim 15. The cited portions of Leuthold do not disclose or suggest the elements of claim 15 not disclosed or suggested by the cited portions of Levi and Davis. For example, the cited portions of Leuthold do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 15. In contrast to claim 15, Leuthold describes a receiver (64) that receives a modulated signal. *See* Leuthold, Figure 6. The cited portions of Leuthold do not disclose or suggest multiple receivers where a first receiver is a first ONT that does not include demodulator circuitry and a second receiver is a second ONT that does include demodulator circuitry. Therefore, the cited portions of Leuthold do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 15, from which claim 16 depends. Hence, claim 16 is allowable, at least by virtue of its dependence from claim 15.

Claims 3, 4, and 17 are Allowable

The Office has rejected claims 3, 4, and 17 on page 7 of the Office Action, under 35 U.S.C. § 103(a) over Levi in view of Davis and U.S. Patent No. 6,608,874 (“Beidas”). Applicant respectfully traverses the rejections.

Claims 3 and 4 depend from claim 1. As explained above, the cited portions of Levi and Davis fail to disclose or suggest at least one element of claim 1. The cited portions of Beidas do not disclose or suggest the elements of claim 1 not disclosed or suggested by the cited portions of Levi and Davis. For example, the cited portions of Beidas do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1. In contrast to claim 1, Beidas describes a receiver (18) that receives a modulated signal. *See* Beidas, Figure 1. The cited portions of Beidas do not disclose or suggest multiple receivers where a first receiver is a first ONT that does not include demodulator circuitry and a second receiver is a second ONT that does include demodulator circuitry. Therefore, the cited portions of Beidas do not disclose or suggest a combined ATM/IP signal that is transmitted to a first

optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1, from which claims 3 and 4 depend. Hence, claims 3 and 4 are allowable, at least by virtue of its dependence from claim 1.

Claim 17 depends from claim 15. As explained above, the cited portions of Levi and Davis fail to disclose or suggest at least one element of claim 15. The cited portions of Beidas do not disclose or suggest the elements of claim 15 not disclosed or suggested by the cited portions of Levi and Davis. For example, the cited portions of Beidas do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 15. In contrast to claim 15, Beidas describes a receiver (18) that receives a modulated signal. *See* Beidas, Figure 1. The cited portions of Beidas do not disclose or suggest multiple receivers where a first receiver is a first ONT that does not include demodulator circuitry and a second receiver is a second ONT that does include demodulator circuitry. Therefore, the cited portions of Beidas do not disclose or suggest a combined ATM/IP signal that is transmitted to a first optical network termination (ONT) that does not include demodulator circuitry and to a second ONT that does include demodulator circuitry, as in claim 1, from which claim 17 depends. Hence, claim 17 is allowable, at least by virtue of its dependence from claim 15.

CONCLUSION

Applicant has pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the cited portions of the references applied in the Office Action. Accordingly, Applicant respectfully requests reconsideration and withdrawal of each of the rejections, as well as an indication of the allowability of each of the pending claims.

Any changes to the claims in this amendment, which have not been specifically noted to overcome a rejection based upon the cited art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

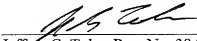
The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

10-2-2007

Date



Jeffrey G. Toler, Reg. No. 38,342
Attorney for Applicant
Toler Law Group, Intellectual Properties
8500 Bluffstone Cove, Suite A201
Austin, Texas 78759
(512) 327-5515 (phone)
(512) 327-5575 (fax)